

THE STATUTE OF LIBERTY JULY 3, 1986
NATURALIZATION PROCEEDING

Once a month our Court holds special naturalization proceedings to swear in about 50 or more new citizens. Unlike some other neighboring United States District Courts, our proceedings are bit more elaborate. There is a special speaker chosen by the Bar Association, the Marine Color Guard advances the Colors, the presiding Judge makes some remarks, and there is a coffee reception afterwards under the auspices of the Daughters of the American Revolution and other patriotic groups. It is simple but impressive. On occasion we have held these special proceedings at the Archives in conjunction with anniversaries of hisrorical events. Once when I presided, **Ross** Perot gave a very moving talk, and all four pages of the Constitution and the Magna Carta were on display.

1986 was **the** year to celebrate the one hundredth anniversary of the Statute of Liberty and elaborate festivities were scheduled in New York City stretching over several days during the July 4th holiday, with everything from the magnificent tall ships to Elvis Pressley "look-alikes." Since I happened to be the Morions Judge in early July, I became unexpectedly embroiled in the unusual series of events summarized below.

It all started with a March 12, 1986, letter from the Immigration and Naturalization Service of the Department of Justice, the body responsible nationwide for processing applications for citizenship, whose duty it is to make certain that all technical formalities have been satisfied. The letter

advised that on July 3rd there would be a national swearing-in ceremony to be broadcast by ABC television from Ellis Island, with similar judicial ceremonies tied in by satellite from Los Angeles; St. Louis; Washington, D. C.; Miami; Independence, Missouri; Boston and Philadelphia. The letter stated that "The Chief Justice of the Supreme Court is scheduled to swear in applicants at each hearing *via* the televised hookup." "The TV production will be in good taste and will respect the dignity of court proceedings. President Reagan and the Chief Justice would not be involved had they not exacted such a promise from Wolper [the producer]. "

We heard that as many as 15,000 new citizens would be taking the oath from the Chief Justice. It was suggested we hold our normal full naturalization ceremony on the steps of the Jefferson Memorial and that ABC would take shots of our ceremony during the televised portion emanating from New York. This seemed like a good idea, considering the assurances and high sponsorship, but details were lacking and many practical questions that arose could not be answered when we asked questions.

Unfortunately, there was nobody in charge. Wolper, a Hollywood producer, was in charge, but all detailed arrangements were in the hands of AEC. Uncertainties continued. Finally a meeting was set up at the Jefferson Memorial. I went with a Deputy U. S. Marshal and court personnel. Park Service, Naturalization, and Bar Association people were on hand. We were told the program should be so arranged that the Chief Justice would give the oath by TV monitor precisely at 9:07 p.m., but no

thought had been given to the formal court proceedings that, by law, had to precede this event. After much discussion the various functionaries took heed of this fact and tentative arrangements were made. We needed at least 125 chairs, tables, parking spaces, a rainy day alternative because there was no shelter, and it looked as though the normal tourist traffic could not be held back. Still no one was in charge. With the aid of the Park Service and the Bar Association, some of these gaps were filled but the Naturalization and Immigration people offered no help and we broke up with little nailed down.

I went off to Maine the middle of June for a week thinking that everything might nonetheless fall into place. When I returned I found that ABC had finally supplied more details about its plans. Someone had told them the new citizens would sing two songs after taking the oath -- America the Beautiful and This is My Country -- and immediately after the oath was given by the Chief Justice a commercial would be televised during the two-and-one-half minute lull when the Chief Justice would fly by helicopter from Ellis Island to join the President on Governor's Island. I was told that when the Court staff objected to the songs, pointing out it would be dark and the group might not know the words, ABC confidently had replied they would "dub in" sound and "pan" *from* a distance. In other words, they would fake it if need be! It had further developed that the Chief Justice's oath would be purely symbolic and without legal effect because he could only administer a binding oath to those in his immediate presence on Ellis Island. I was very troubled.

This all seemed most unfortunate. I couldn't believe the Chief Justice was aware of what was going on and I could not allow show business gimmicks to take over the court proceedings. I reported my information and concerns to the Chief Justice's personal staff and public relations people, made several calls, but never heard a word. The Supreme Court was still in session, the Chief Justice had just resigned, and impeachment proceedings involving a judge of another Circuit had arisen. These and other matters naturally had higher priority. I simply couldn't get through.

After waiting a week I told Chief Judge Aubrey Robinson I thought our participation should be dropped. A few telephone calls indicated that some judges in other cities chosen to be involved in the affair were becoming concerned and one had already cancelled, saying "the Courts are not in the entertainment business."

We decided to cancel and I wrote the Immigration and Naturalization Service saying I felt arrangements were not in good taste, as promised, and that we were not going along because the Court proceedings were being turned into a pageant over which I had no control. Because various newspaper reporters, rival broadcasters and some members of the public had been asking questions about our court's program and some had planned to cover or participate, we released the letter, without comment, to the public and the other members of our Court.

The response was varied. ABC said it wouldn't lose any money, thus emphasizing its narrow focus. David Wolper, the impresario who had directed and designed the Liberty Week-end,

however, was angry. He pleaded with me over the telephone but to no avail, He was crude and vulgar. Soon the Commissioner of Immigration and Naturalization, with his lawyer, met with Chief Judge Aubrey Robinson and me for a full hour, putting on every kind of persuasion, but we stood our ground. We assumed Wolper had agitated someone at the White House. False rumors floated around that I had been disciplined by the Chief Justice and was changing my mind and it was apparent that Wolper was pulling every string. This increased the publicity until this rather simple decision became a national news event kicked off by a front page story in the New York Times on June **28, 1986**, headed "Judge Citing Commercials, Drops TV Citizenship Oath." This was followed by another piece in July **4, 1986**, headed "Judge Gesell Has it His Way, Without TV." The telephones rang off the hook. I must have had a dozen requests for interviews on talk shows and the press built things up in their usual fashion.

I avoided getting involved in any way and turned to arranging our own program for 4:00 p.m. on July **3**, in the Ceremonial Courtroom at the Courthouse. The Immigration and Naturalization people remained unresponsive and our own people had to write or telephone many prospective new citizens to be sure all were aware of the change of plans for fear belated written notices from Immigration and some of their half-hearted calls might be insufficient.

Immediately I had my own TV problem. While the federal courts have strict rules against TV or radio or photographers in court, ceremonial occasions may nonetheless be opened to these media in the discretion of the presiding judge. ABC had

negotiated an exclusive with Wolper for Liberty Week-end and NBC and CBS were mad. They asked to have their cameras at our courthouse. Public TV and radio, Time Magazine and others also wanted to cover. By this time there appeared to be considerable interest in what a normal naturalization ceremony was like and I thought if the public could see and hear what we were going to do the contrast with the artificiality of New York would make a point. Accordingly, I opened the proceedings to the media with the following strictures.

(1) No commercials to interrupt proceedings would be shown.

(2) Only one stationary TV camera would be allowed -pooled coverage.

(3) No lights in eyes of audience or Court.

(4) Two still photographers to remain stationery and pool pictures.

(5) One small radio microphone.

The press fully cooperated in every way. There was no disturbance or intrusion. The 99 new citizens and many others filled the Ceremonial Courtroom to capacity and all went smoothly. After my remarks,¹ I went down and shook hands with some of the new citizens. To placate the still grumbling Naturalization people I told the new citizens they could take another symbolic oath from the Chief Justice on the Jefferson Memorial steps at 9:00 p.m., but only twelve went. I didn't.

¹See copy, attached.

This was our first experiment with full TV-radio mass press coverage of a court proceeding and fortunately it went well.

Our decision not to allow commercials in the midst of a court proceeding struck an unexpected response. There were a number of favorable editorials and wide press coverage. Members of the public call chambers indicating strong approval. The mail was very heavy -- all favorable. A few samples are excerpted below and give the tone of the unanimous reaction that came my way. A judge is so used to hate mail that these often thoughtful letters carried a double significance. In a small way, perhaps, respect for the Federal Courts was enhanced.

Here are samples² from letters received:

Just a word to let you know how much your highly unusual (in these days) move was, and how much your personal decision as a judge, has done for many of us. I'm sure there are many more of us than you will hear from.

* * *

Thank you for understanding that becoming a naturalized citizen of the United States is a decision made with much thought and feeling.

Thank you for understanding that a landmark in my life was not for the benefit of commercial television, just as it should not have been in July, 1986.

* * *

To introduce commercialization into such ceremonies is to reduce, if not destroy, the dignity and significance of the naturalization process, and the office which you hold.

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²None of these excerpts are from letters written by friends or acquaintances, although many in this category also wrote.

I want to tell you how much I admire you for deciding not to participate in a "spectacle." As an immigrant myself becoming a citizen is a wonderful special spiritual experience - not to be commercialized.

Congratulations for your courage and integrity. It is not easy to go against the "tide."

* * *

My thanks to you for emphasizing the serious commitment of citizenship by refusing to make it part of a commercial entertainment. The dignity of the Court should not be seen as part of the "fun."

Many of us are grateful for your stand.

* * *

Please accept the gratitude of one citizen for your action in refusing to participate in a lowering of the dignity of 'the U.S. courts.

I hope, with modest expectation of fulfillment, that your refusal to join in a televised, commercial-sponsored administering of the oath to new citizens on July 3, that this will be educational for some of our fellow Americans. I fear the act may be lost in our national hoopla. But better this than acquiescing in a demeaning scene.

* * *

Please accept my deep thanks for your wisdom, sobriety, dignity and good taste in withdrawing from the Statue of Liberty gala in the manner that you did.

I am happy that there is someone like you, who refuses to surrender our values to the show business managers of our country.

* * *

Please accept my congratulations for your having resisted the attempts to make your official duties a part of the circus that will be televised next weekend.

* * *

I agree with you completely -- a naturalization ceremony is not commercial entertainment. Keep the hucksters out of it!

* * *

Thank you for having the courage to speak out.

* * *

Perhaps your welcome quiet exercise of judicial prerogative will help reverse an ugly and destructive trend. In any event, it was heartening and inspiring to find someone in public office willing to stand and say, "No farther."

* * *

The quiet dignity of a court room is the proper place to officially welcome our immigrant friends. A judge whose solemn duty is to administer the oath should not be discarded or replaced by a voice and picture on TV. New citizens deserve personal attention not an Orwellian 1984 substitute.

* * *

May I congratulate you on the courage and the wisdom you showed in refusing to make a naturalization proceeding a part of a television show. You have shown that even in this entrepreneurial age not everything is to be measured by the bottom line.

* * *

We read of your refusal to participate in the July Fourth parody of patriotism and your decision to swear in the new citizens on July 3rd. We support your decision with enthusiasm. This country stands to lose all of its values to commercialism. Your stand helps to slow that process.

* * *

It is heartening to know that one voice survives with the courage to speak out against the nauseating cheapening of the high standards on which our country was based.

* * *

I applaud your decision to abstain from participation in the commercialization of the statute of liberty. I only wish that there were more leaders of integrity and taste.

* * *

My parents were immigrants who arrived in Boston years ago. In their lifetime they instructed and were sponsors for many "new citizens" in the Northampton/Hadley, Massachusetts area. The induction of these people was a solemn and most often moving occasion. It was done with

dignity. I hope if they were alive today, they would be saddened by the carnival atmosphere of today's Liberty celebration.

The fact that everything went so smoothly and many possible mistakes were avoided was due to the interest and dedicated work, under pressure, of LeeAnn Flynn and the naturalization team in the Clerk's Office.

Gerhard A. Gesell

October, 1986.

Remarks at the Naturalization Ceremony
July 3, 1986, by
Gerhard A. Gesell
United States District Judge

This formal court proceeding is required by law. Congress has for many years placed upon United States District judges like myself the pleasant responsibility to complete the process that brings you into full citizenship. Every month naturalization proceedings like this are held here and elsewhere throughout the country under prescribed rules and procedures. It is traditional for the presiding judge to make a few remarks at this point to emphasize the significance of the oath you have just taken.

This nation has had a long-standing and continuing willingness to welcome and accept men and women from all lands who seek citizenship here. The Statute of Liberty being honored in ceremonies today symbolizes that commitment. We have liberalized uniform rules of naturalization, always recognizing, as Chief Justice Marshall declared in 1824, that a naturalized citizen becomes a member of the society, possessing all the rights of the native citizen and standing in the view of the Constitution on the footing of a native." [Osborne, 22 U.S. 827.]

By accepting citizenship today you are now a part of a great experiment in government which has relied heavily on the talents and energies of its naturalized citizens. Indeed, if you think about it a moment, you will realize we are a nation of immigrants trying to make a unique experiment work -- an experiment whose ideals are so forcefully stated in the

Declaration of Independence and embodied in our Constitution. Our government **is** unlike that existing anywhere else in the world. Ours is not a government originating in takeover and fraud, or one imposed by designing individuals for their personal advantage. Nor is this a country of military dictators, hereditary rulers or one governed by a self-chosen rich elite who control the destiny of the poor.

Our experiment in government has a system to assure that the will of the people, not the will of its officials, shall decide what is **best** for the public good. We seek to perfect a society where those who live here have the right to be left alone, to speak out for what they believe is best for the good of the whole, and to worship as they choose. We want to live and work in peace, free from molestation, subject to rules set out in laws chosen by us as the most appropriate for our general welfare. This was and **is** a new, radical and daring experiment.

Remember, this **is** a very young country. In many countries of the world, people trace their heritage back hundreds of years to relatives who lived in the same town **or** village and worked in the shadows of the same ancient church or buildings. Not so here. This is a nation of immigrants, like yourselves, and the children, grandchildren, and great-grandchildren of immigrants who have preceded **you**. **As** recently as when my grandfather came here from Germany, he went to the far West and was wounded by an Indian arrow. The land was vast, our

population was relatively small, and the country was still opening up.

As life has become more crowded and complex, our experiment in government demands more than ever that each citizen get involved in the process of government to assure that it continues to serve the best interests of **us** all. This is your high responsibility that comes with the privilege of citizenship. Do not take our form of government **for** granted. It will prosper **only** if those born into citizenship and those, like you, who are sworn into citizenship, remain vigilant and participate to keep our form of government working. It must not be allowed to wither because the people for whom it was created **simply** don't care enough.

There are some who mistakenly believe that the civil liberties guaranteed by our Constitution authorize them to impose their **own** private views and moral standards upon everyone else. These people are sometimes strident, excessively demanding and well financed. They would interfere with religious beliefs and practices of others, or dictate what we **or** our children can read, or control intimate family affairs and other aspects of individual personal lawful conduct. We should be wary of these people and examine carefully what underlies their vehement assertions. Some special interests may not always be as concerned with our welfare as they purport to be. They may well be peddling forms of bigotry and intolerance in disguise and, if

so, they must be thwarted to assure that the basic principles underlying our unique form of democracy are preserved.

We have moved ahead as a nation because we strive for something better. This land of opportunity and promise will not continue to prosper if we become smug, self-satisfied and think only of ourselves. We have not been willing to allow inequities to continue simply because things are that way. We have in the past worked to correct deep-rooted societal problems such as poverty, racism and sex discrimination. These and other problems, such as illiteracy, housing, unemployment, concerns for the aged and drug addiction, continue to challenge ingenuity.

We must not give up, but continue to learn and improve, using the talent and experience that people like yourselves bring when they come into our citizenship from other lands.

In short, do not be willing to leave government to others -- participate. Demand competence in your leaders. Ours must be a vital, not a complacent, conforming, wholly materialistic society.

You can help in some way. Seek out the good, shun the bad. Vote, work, help others, be useful, obey the law, speak out against intolerance, get involved. Use your minds, not your fists. Your voice will be heard. If you do this your citizenship will be especially valuable and will remain a precious tool by which you can gain the good life you sought by coming here and our radical experiment in government will continue to flourish.